

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TANYA BROWN,)
)
 Plaintiff,)
)
 v.) Case No.
)
 PHILLIPS & COHEN ASSOCIATES, LTD.,)
)
 Defendant.)

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, TANYA BROWN (“Plaintiff”), through her attorneys, KROHN & MOSS, LTD., and for her Complaint against Defendant, PHILLIPS & COHEN ASSOCIATES, LTD. (“Defendant”), alleges and affirmatively states as follows:

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. 1367 grants this court supplemental jurisdiction over the state tort claims alleged.

3. Defendant conducts business in the State of Illinois, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

6. Plaintiff is a natural person residing in Frankfort, Will County, Illinois.
7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).
8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.
9. Defendant is a business entity located in Wilmington, Delaware.
10. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment on various accounts. *See Exhibit A* hereto.
12. Plaintiff sent to Defendant written notification that Plaintiff was represented by an attorney, that Plaintiff disputed the alleged debts, and that Plaintiff wanted Defendant to cease further communication with Plaintiff. *See Exhibit B* hereto.
13. Despite the aforementioned letters, Defendant continues to constantly and continuously place collection calls to Plaintiff attempting to collect on the alleged debts.
14. Defendant also sent a second collection letter to Plaintiff on an HSBC account after receipt of Plaintiff's cease and desist letter regarding the same account. *See Exhibit C* hereto.
15. Defendant placed collection calls to Plaintiff but did not disclose to Plaintiff that it was a debt collector.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692c(a)(2) of the FDCPA by communicating with Plaintiff after Defendant knew Plaintiff was represented by an attorney.
 - b. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Plaintiff sent written notification that she wished Defendant to cease further communications.
 - c. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress and/or abuse Plaintiff.
 - d. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and/or harass Plaintiff.
 - e. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the calls were from a debt collector.

WHEREFORE, Plaintiff, TANYA BROWN, respectfully requests judgment be entered against Defendant, PHILLIPS & COHEN ASSOCIATES, LTD., for the following:

- a) Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act;
- b) Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k;
- c) Actual damages;
- d) Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k; and
- e) Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

By: /s/ Adam J. Krohn

Adam J. Krohn

Adam T. Hill

KROHN & MOSS, LTD.

120 W. Madison St., 10th Fl.

Chicago, Illinois 60602

(312) 578-9428

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, TANYA BROWN, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF ILLINOIS)

Plaintiff, TANYA BROWN, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, TANYA BROWN, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

09-14-09
Date

Tanya Brown
TANYA BROWN

EXHIBIT A

P.O. Box 48458
Oak Park, MI 48237
Return Service Requested

06/30/09

Phillips & Cohen Associates, Ltd.

Ph 866-321-2195 • Fx 302-368-0970

Office Hours: M-Th: 8am-9pm, Fri: 8am-6pm
Sat: 8am-12pm

CHECK CARD USING FOR PAYMENT					
CARD NUMBER		PAYMENT AMOUNT			
CARD BILLING ADDRESS AND ZIP CODE					
SIGNATURE			EXP. DATE		

Check the box below if you are paying by credit card

1

1002 Justison Street
Wilmington, DE 19801

TANYA MCDANIEL
21480 SETTLERS POND DR.
FRANKFORT IL 60423-7980

Reference #: 15144082
Balance: \$1620.44

** PLEASE DETACH AND RETURN IN THE ENCLOSED ENVELOPE WITH YOUR PAYMENT **

Rc: Client: PORTFOLIO ASSET GROUP
Original Creditor: WALMART
Orig. Acct#: [REDACTED]
Reference#: 15144082
Balance: \$1620.44

Dear TANYA MCDANIEL:

Your account has now been purchased by our client, PCA Acquisitions V, LLC. d/b/a PORTFOLIO ASSET GROUP and they have referred to our office for collection on their behalf. To resolve this matter and prevent any further collection activity, full payment should be sent to this office at 1002 Justison Street Wilmington, DE 19801.

IT IS NOT IN YOUR BEST INTEREST TO NEGLECT THIS ACCOUNT! YOU MAY CONTACT OUR OFFICE AT THE ABOVE TELEPHONE NUMBER.

Sincerely,

Phillips & Cohen Associates, Ltd.

Payment by credit card transaction fees: MasterCard, Visa and Discover \$5 per \$150; American Express \$7 per \$150.

**** IMPORTANT CONSUMER INFORMATION ****

Unless you notify this office within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within thirty (30) days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you copy of such verification or judgment. If you request this office in writing within thirty (30) days of receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Phillips & Cohen Associates, Ltd. • 1002 Justison Street • Wilmington, DE 19801 • 866-321-2195

(QESP80:T026:002639:0011:1000:09181:PL01:PCAISS9:01:

P.O. Box 48458
Oak Park, MI 48237
Return Service Requested

07/03/09

Phillips & Cohen Associates, Ltd.

Ph 800-889-3023 • Fx 302-368-0970

Office Hours: M-Th: 8am-9pm, Fri: 8am-6pm

Sat: 8am-12pm

CHECK CARD USING FOR PAYMENT					
CARD NUMBER		PAYMENT AMOUNT			
CARD BILLING ADDRESS AND ZIP CODE					
SIGNATURE			EXP. DATE		

Check the box below if you are paying by credit card

TANYA MCDANIEL
21480 SETTLERS POND DR
FRANKFORT IL 60423-7980

1002 Justison Street
Wilmington, DE 19801

Reference #: 15134050
Balance: \$3132.60

*** PLEASE DETACH AND RETURN IN THE ENCLOSED ENVELOPE WITH YOUR PAYMENT ***

Re: Client: PORTFOLIO ASSET GROUP
Original Creditor: HSBC
Orig. Acct#: XXXXXXXXXXXXXX
Reference#: 15134050
Balance: \$3132.60

Dear TANYA MCDANIEL:

Your account has been referred to our office for collection on behalf of our above referenced client. To resolve this matter and prevent any further collection activity, full payment should be sent to this office at the address above.

IT IS NOT IN YOUR BEST INTEREST TO NEGLECT THIS ACCOUNT! YOU MAY CONTACT OUR OFFICE AT THE ABOVE TELEPHONE NUMBER

Sincerely,

Phillips & Cohen Associates, Ltd.

Payment by credit card transaction fees: MasterCard, Visa and Discover \$5 per \$150; American Express \$7 per \$150.

**** IMPORTANT CONSUMER INFORMATION ****

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EXHIBIT B

Debt Counsel for Seniors & the Disabled

✓ 16 July 2009

BY FAX ONLY: 302-368-0970
Page 1 of 3

Collections Manager
Phillips & Cohen Associates, Ltd.
1002 Justison Street
Wilmington, DE 19801

Re: Tanya Brown-McDaniel

Your file or reference No.: 15144082; Wal-Mart: ~~60000000000000000000~~
Our file No.: 11178

Dear General Counsel or Compliance Officer:

Please be advised that my law firm represents the above-referenced client for the purpose of enforcing their rights against debt collectors under all applicable federal laws

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with **15 U.S.C. § 1692g**. Please provide any agreement(s) our client signed with the original creditor, an accounting history showing how you got to the amounts claimed and when this alleged debt was charged off. Unless and until such proof is furnished, we do not recognize any right on your part to attempt to collect any amount from our client through credit reporting or any other means. Moreover, all changes in terms of this alleged debt are hereby objected to and rejected. Please be advised that the continuation of collection activity without adequately responding to these requests may result in a lawsuit against you.

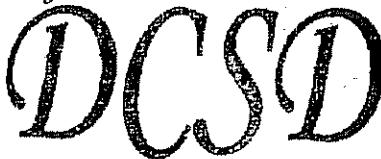
As the client's attorney, I also respectfully inform you that you must **cease** contacting them according to **§§ 1692c(a)(2) AND 1692c(c)** of the **Fair Debt Collection Practices Act**, since this letter not only serves as notice of our representation of this client but also contains a **cease and desist order** signed and notarized by the alleged debtor. If and when you violate these statutes, I will not hesitate to pursue all legal remedies on behalf of my client in the United States District Court.

Very truly yours,

A handwritten signature of Jerome S. Lamet in black ink.

Jerome S. Lamet, Supervising Attorney
Debt Counsel for the Seniors and the Disabled
Cc: Tanya Brown-McDaniel

Jerome S. Lamet, Supervising Attorney
The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

Debt Counsel for Seniors & the Disabled

16 July 2009

BY FAX ONLY: 302-368-0970
Page 1 of 3

Collections Manager
Phillips & Cohen Associates, Ltd.
1002 Justison Street
Wilmington, DE 19801

Re: **Tanya Brown-McDaniel**

Your file or reference No.: 15134050; HSBC: XXXXXXXXXX
Our file No.: 11178

Dear General Counsel or Compliance Officer:

Please be advised that my law firm represents the above-referenced client for the purpose of enforcing their rights against debt collectors under all applicable federal laws

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with 15 U.S.C. § 1692g. Please provide any agreement(s) our client signed with the original creditor, an accounting history showing how you got to the amounts claimed and when this alleged debt was charged off. Unless and until such proof is furnished, we do not recognize any right on your part to attempt to collect any amount from our client through credit reporting or any other means. Moreover, all changes in terms of this alleged debt are hereby objected to and rejected. Please be advised that the continuation of collection activity without adequately responding to these requests may result in a lawsuit against you

As the client's attorney, I also respectfully inform you that you must **cease** contacting them according to **§§ 1692c(a)(2) AND 1692c(c)** of the **Fair Debt Collection Practices Act**, since this letter not only serves as notice of our representation of this client but also contains a **cease and desist order** signed and notarized by the alleged debtor. If and when you violate these statutes, I will not hesitate to pursue all legal remedies on behalf of my client in the United States District Court

Very truly yours,

A handwritten signature of Jerome S. Lamet.

Jerome S. Lamet, Supervising Attorney
Debt Counsel for the Seniors and the Disabled
Cc: Tanya Brown-McDaniel

Jerome S. Lamet, Supervising Attorney
The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

Debt Counsel for Seniors & the Disabled

✓ 2 June 2009

BY FAX ONLY: 302-368-3075
Page 1 of 3

Collections Manager
Phillips & Cohen Associates, Ltd
P.O. Box 48458
Oak park, MI 48237

Re: **Tanya Brown-McDaniel**
Your file or reference No.: 14980142; Bank of America: XXXXXXXXXXXXXX
Our file No.: 11178

Dear General Counsel or Compliance Officer:

Please be advised that my law firm represents the above-referenced client for the purpose of enforcing their rights against debt collectors under all applicable federal laws.

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with **15 U.S.C. § 1692g**. Please provide any agreement(s) our client signed with the original creditor, an accounting history showing how you got to the amounts claimed and when this alleged debt was charged off. Unless and until such proof is furnished, we do not recognize any right on your part to attempt to collect any amount from our client through credit reporting or any other means. Moreover, all changes in terms of this alleged debt are hereby objected to and rejected. Please be advised that the continuation of collection activity without adequately responding to these requests may result in a lawsuit against you.

As the client's attorney, I also respectfully inform you that you must **cease** contacting them according to **§§ 1692c(a)(2) AND 1692c(c)** of the **Fair Debt Collection Practices Act**, since this letter not only serves as notice of our representation of this client but also contains a **cease and desist order** signed and notarized by the alleged debtor. If and when you violate these statutes, I will not hesitate to pursue all legal remedies on behalf of my client in the United States District Court.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jerome S. Lamet".

Jerome S. Lamet, Supervising Attorney
Debt Counsel for the Seniors and the Disabled
Cc: Tanya Brown-McDaniel

Jerome S. Lamet, Supervising Attorney

The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

EXHIBIT C

P O. Box 48458
Oak Park, MI 48237
Return Service Requested

08/15/09

TANYA MCDANIEL
21480 SETTLERS POND DR
FRANKFORT IL 60423-7980

Phillips & Cohen Associates, Ltd.

Ph 866-321-2195 • Fx 302-368-0970

Office Hours: M-Th: 8am-9pm, Fri: 8am-6pm

Sat: 8am-12pm

CHECK CARD USING FOR PAYMENT		<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> DISCOVER	<input type="checkbox"/> AMERICAN EXPRESS
CARD NUMBER		PAYMENT AMOUNT			
CARD BILLING ADDRESS AND ZIP CODE					
SIGNATURE			EXP. DATE		

Check the box below if you are paying by credit card

1002 Justison Street
Wilmington, DE 19801

Reference #: 15134050
Balance: \$3132.60

*** PLEASE DETACH AND RETURN IN THE ENCLOSED ENVELOPE WITH YOUR PAYMENT ***

Re: Client: PORTFOLIO ASSET GROUP
Original Creditor: HSBC
Client Acct#: XXXXXXXXXXXXXX
Reference#: 15134050
Balance: \$3132.60

Dear TANYA MCDANIEL:

We had hoped that you would resolve your financial obligation with PORTFOLIO ASSET GROUP prior to initiating further collection activity to recover the amount owed to them. Apparently that is not the case.

In an effort to reach a mutually acceptable remedy to this matter, our client has agreed to offer you the opportunity to settle this indebtedness for 70% of the amount owed or \$2192.82. If this matter remains unresolved, we will have no other alternative but to evaluate your credit history and present financial circumstances, then proceed accordingly.

You now have an extremely important decision to make. The wrong choice could ultimately be more costly to you in the future, as this offer to settle at a reduced rate may not be available.

If you are unable to pay in full or settle at the reduced rate, contact our office today. You may qualify for our hardship program. However, please be advised that your failure to respond will leave us with no option but to use the resources of this agency to explore all means of recovering the total amount due to our client.

Time is of the essence. We genuinely hope that you resolve this obligation without the need for further collection activity. Should you have any questions regarding this matter please call at the above referenced number.

Sincerely,

Phillips & Cohen Associates, Ltd.

****IMPORTANT CONSUMER INFORMATION****

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.